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MONTANA LEGISLATIVE HISTORY

Chapter 644 1985

Bill H 44 S _____ Original bill & history ✓ C

H. Committee on Human Services & Aging			S. Committee on Judiciary		
Hearing Date(s)	Jan 09	✓ C	Hearing Date(s)	Mar 11	✓ C
		C		Mar 19	✓ C
		C			C
		C			C
Date Out	Jan 09	✓ C		Mar 19	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

	1/09 HEARING		
	1/10 COMMITTEE REPORT-NO RECOMMENDATION		
	1/11 REREFERRED TO TAXATION		
	1/22 HEARING		
	DIED IN COMMITTEE		

HB 42 INTRODUCED BY MANUEL
GENERALLY REVISE LAWS ON TAX AND ALCOHOL
BY REQUEST OF CODE COMMISSIONER

1/07	INTRODUCED		
1/07	REFERRED TO TAXATION		
1/09	HEARING		
1/09	COMMITTEE REPORT-BILL DO PASS		
1/11	2ND READING PASS	99	0
1/14	3RD READING PASS	96	0
	TRANSMITTED TO SENATE		
1/15	REFERRED TO TAXATION		
1/29	HEARING		
1/29	COMMITTEE REPORT-BILL CONCURRED		
1/30	2ND READING CONCURRED	49	0
2/01	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE		
2/07	SIGNED BY SPEAKER		
2/07	SIGNED BY PRESIDENT		
2/07	TRANSMITTED TO GOVERNOR		
2/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 20 EFFECTIVE DATE: 10/01/85		

HB 43 INTRODUCED BY HARPER
UNIFORM TRADE SECRETS ACT

1/07	INTRODUCED		
1/07	REFERRED TO BUSINESS & LABOR		
1/08	HEARING		
1/15	COMMITTEE REPORT-BILL PASS AS AMENDED		
1/18	2ND READING PASS	96	0
1/21	3RD READING PASS	97	0
	TRANSMITTED TO SENATE		
1/22	REFERRED TO BUSINESS & INDUSTRY		
1/30	HEARING		
3/05	COMMITTEE REPORT-BILL CONCURRED		
3/06	2ND READING CONCURRED	47	0
3/08	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/12	SIGNED BY SPEAKER		
3/13	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 104 EFFECTIVE DATE: 10/01/85		

HB 44 INTRODUCED BY WALDRON
REQUIRE PAYMENT OF VICTIM COUNSELING BY OFFENDER;
RAPE OR INCEST

1/07 INTRODUCED
1/07 REFERRED TO HUMAN SERVICES & AGING
1/09 HEARING
1/10 COMMITTEE REPORT-BILL PASS AS AMENDED
1/12 2ND READING PASS 91 2
1/14 3RD READING PASS 93 3

TRANSMITTED TO SENATE
1/15 REFERRED TO JUDICIARY
3/11 HEARING
3/19 COMM REPORT-BILL CONCURRED AS AMENDED
3/22 2ND READING CONCURRED 48 0
3/25 3RD READING CONCURRED 48 1

RETURNED TO HOUSE WITH AMENDMENTS
4/02 2ND READING AMENDMENTS NOT CONCURRED 94 0
4/12 CONFERENCE COMMITTEE APPOINTED
4/17 CONFERENCE COMMITTEE REPORT

HOUSE
4/18 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED 90 3
4/18 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED 96 2

SENATE
4/18 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED 48 0
4/18 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED 48 0
4/23 SIGNED BY SPEAKER
4/23 SIGNED BY PRESIDENT

4/24 TRANSMITTED TO GOVERNOR
4/30 SIGNED BY GOVERNOR
CHAPTER NUMBER 644 EFFECTIVE DATE: 10/01/85

HB 45 INTRODUCED BY WALDRON, HARP, ET AL.
INCREASE THE CIGARETTE EXCISE TAX TO 24 CENTS PER PACKAGE
BY REQUEST OF OFFICE OF BUDGET AND PROGRAM PLANNING

1/07 INTRODUCED
1/07 REFERRED TO TAXATION
1/07 FISCAL NOTE REQUESTED
1/12 FISCAL NOTE RECEIVED
3/21 HEARING
3/29 COMMITTEE REPORT-BILL PASS AS AMENDED
3/30 2ND READING DO NOT PASS 52 48
4/01 RECONSIDERATION
4/10 2ND READING PASS 77 20
4/10 ON MOTION RULES SUSPENDED
PLACED ON 3RD READING THIS DAY
4/10 3RD READING PASS 69 30

TRANSMITTED TO SENATE
4/13 ON MOTION RULES SUSPENDED
TO ACCEPT FOR CONSIDERATION

HOUSE BILL NO. 44

INTRODUCED BY WALDRON

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Human Services and Aging.
January 10, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
January 12, 1985	Second reading, do pass.
	Considered correctly engrossed.
January 14, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

January 15, 1985	Introduced and referred to Committee on Judiciary.
March 19, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1985	Second reading, concurred in.
March 25, 1985	Third reading, concurred in. Ayes, 48; Noes, 1.
	Returned to House with amendments.

IN THE HOUSE

March 26, 1985	Received from Senate.
April 2, 1985	Second reading, amendments not concurred in.
	On motion, Conference Committee requested.
April 12, 1985	Conference Committee appointed.
April 17, 1985	Conference Committee reported.
April 18, 1985	Second reading, Conference Committee report adopted.
	Third reading, Conference Committee report adopted.
	Conference Committee report adopted by Senate.
April 19, 1985	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 44

INTRODUCED BY WALDRON

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE COURTS TO REQUIRE PAYMENT OF A VICTIM'S COUNSELING COSTS BY A DEFENDANT CONVICTED OF THE OFFENSE OF INCEST OR SEXUAL INTERCOURSE WITHOUT CONSENT; AMENDING SECTIONS 45-5-503 AND 45-5-507, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-5-503, MCA, is amended to read:

"45-5-503. Sexual intercourse without consent. (1) A person who knowingly has sexual intercourse without consent with a person of the opposite sex not his spouse commits the offense of sexual intercourse without consent.

(2) A person convicted of sexual intercourse without consent shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than $50,000, except as provided in 46-18-222.

(3) (a) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual intercourse without consent, he shall be imprisoned in the state prison for any term of not less than 2 years or more than 40 years and may be fined not more than $50,000, except as provided in 46-18-222.

~~(4)~~ (b) An act "in the course of committing sexual intercourse without consent" shall include an attempt to commit the offense or flight after the attempt or commission.

(4) In addition to any sentence imposed under subsection (2) or (3), the court shall require the offender to pay the victim's costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

(5) No evidence concerning the sexual conduct of the victim is admissible in prosecutions under this section, except:

(a) evidence of the victim's past sexual conduct with the offender;

(b) evidence of specific instances of the victim's sexual activity to show the origin of semen, pregnancy, or disease which is at issue in the prosecution under this section.

(6) If the defendant proposes for any purpose to offer evidence described in subsection (5)(a) or (5)(b), the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (5).

LC 0281/01

INTRODUCED BILL
HB 44

(7) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim."

Section 2. Section 45-5-507, MCA, is amended to read:

"45-5-507. Incest. (1) A person commits the offense of incest if he knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact as defined in 45-2-101 with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to herein include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

(3) A person convicted of incest shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed $50,000, or both.

(4) In addition to any sentence imposed under subsection (3), the court shall require the offender to pay the victim's costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244."

NEW SECTION. Section 3. Applicability. This act

applies to offenses committed on or after October 1, 1985.

-End-

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 9, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on January 9, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol building.

ROLL CALL: All members were present.

HOUSE BILL NO. 44: Hearing commenced on House Bill No. 44. Representative Steve Waldron, District #58, sponsor of the bill, stated that victims of a crime of incest or sexual intercourse without consent need some type of counseling and that the perpatrator of the crime should be responsible for the financial necessities of this crime. However, an amendment should be included which states that the perpatrator be required to pay restitution after determining the financial resources and future ability of the offender.

Proponents Karl England of the Montana Trial Lawyers Association indicated his support. John Albrecht, Teton County Justice of the Peace indicated his support. Anne Brodsky of the Women's Lobbyist Fund indicated the psychological harm on victims as is shown in Exhibit 1. Proponent Cathy Campbell of the Montana Association of Churches also supports this bill as indicated in Exhibit 2. There were no opponents to this bill. Questions were raised by Representative Connolly regarding the proposed amendment to this bill.

There being no further discussion to House Bill No. 44, the hearing was closed.

HOUSE BILL NO. 46: Hearing commenced on House Bill No. 46. Representative Bernie Swift, District #64, sponsor of the bill, stated that this bill was an act to authorize special parking permits for the parent or guardian of a handicapped child or the spouse of a handicapped person.

Proponent Diane Sabastian with the Association of Independent People indicated her support of this bill. There was one opponent to this bill being Vivian Crabtree. Chairperson Keenan requested a draft rewording of this proposal and Committee would reconsider.

There being no further proponents or opponents to this bill, Representative Keenan then excused Representative Swift.

There being no further discussion of House Bill No. 46, the hearing was closed.

EXECUTIVE MEETING:

ACTION ON HOUSE BILL NO. 44: Representative Waldron made a motion that House Bill 44 DO PASS. The motion was seconded by Representative Darko. Representative Waldron made a motion that the bill be amended (See Exhibits 4 and 5) and it was then seconded. There was no discussion. Representative Waldron moved that the bill, as amended, DO PASS.

ACTION ON HOUSE BILL NO. 46: Representative Gould made a motion that House Bill 49 DO NOT PASS. Representative Waldron seconded the motion and the bill was unanimously voted to DO NOT PASS.

ACTION ON HOUSE BILL 52: Representative Wallin made a motion that House Bill 52 DO PASS. The motion was seconded by Representative Marian Hanson, and was unanimously voted to DO PASS.

Chairperson Keenan then set a rehearing date for House Bill No. 49. It is to be reheard on January 14, 1985 at 3:00 p.m. in Room 312-2.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 4:50 p.m.

Rep Nancy Keenan
NANCY KEENAN, Chair

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 9, 1985

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

STANDING COMMITTEE REPORT

January 9 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 44

first reading copy (white)
color

Require payment of victim counseling by offender; rape or incest

Respectfully report as follows: That House Bill No. 44

BE AMENDED AS FOLLOWS:

1) Page 2, line 8
Following: "(3),"
Insert: "after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242,"

2) Page 3, line 21
Following: "(3),"
Insert: "after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242,"

AND AS AMENDED,
DO PASS

1/10/85

Chairman.

STATE PUB. CO.
Helena, Mont.

EXHIBIT 1
HB 44
1/9/85

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

January 9, 1985

TESTIMONY IN SUPPORT OF HB 44

Madam Chairwoman
~~Mr. Chairman~~ and members of the Human Services and Aging Committee:

My name is Anne Brodsky and I am speaking on behalf of the Women's Lobbyist Fund (WLF) in support of House Bill No. 44. A priority of the WLF is to work to strengthen laws which reduce or, as in this case, mitigate the impact of crimes of sexual violence against women and children. As you well know, rape and incest are some of the most serious crimes of violence, and women and children are the most frequent victims of such crimes.

The seriousness of the crimes of rape and incest is heightened by the fact that the harm done to the victim is not limited to the time of the criminal act. Instead, crimes of rape and incest often leave long lasting psychological wounds on those who have been victimized.

Rape is an act of violence. Incest is an act that is most often committed over a continuing period of time before it is put to a stop. The victims of incest are children. I need not explain here the severity of the psychological harm caused to both rape and incest victims.

House Bill No. 44 is a bill that requires the obvious to be done. It recognizes that psychological harm is inflicted on victims of rape and incest. It recognizes that counselling may be necessary because of that psychological harm. And finally, it requires the perpetrator of the crime to pay monetarily for the counselling that may be required as a result of the criminal act.

We urge you to pass House Bill No. 44.

EXHIBIT 2
HB 44
1/9/85

Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 596

January 9, 1985

WORKING TOGETHER:

American Baptist Churches of the Northwest

American Lutheran Church Rocky Mountain District

Christian Church (Disciples of Christ) in Montana

Episcopal Church Diocese of Montana

Lutheran Church in America Pacific Northwest Synod

Roman Catholic Diocese of Great Falls

Roman Catholic Diocese of Helena

United Church of Christ Montana Conference

United Methodist Church Yellowstone Conference

United Presbyterian Church Glacier Presbytery

United Presbyterian Church Yellowstone Presbytery

MADAM CHAIRWOMAN AND MEMBERS OF THE HOUSE HUMAN SERVICES COMMITTEE:

I am Cathy Campbell of Helena, representing the Montana Association of Churches and speaking in support of House Bill 44.

We've been concerned about the victims of crime for years, and in 1977 adopted a position statement supporting compensation of victims of crime. We feel that the financial burden should not be placed upon the victim.

The intent of this bill is consistent with our position, and acknowledges a dimension of the particular offenses that simple compensation doesn't. We would therefore like to lend our support to the bill.

EXHIBIT 4
HB 44
1/9/85

Proposed Amendment to House Bill 44

1. Page 2, line 8
Following: "(3),"
Insert: "after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242,"

AMEND/hm/HB 44 Gomez

EXHIBIT 5
HB 44
1/9/85

Proposed Amendment to House Bill 44

1. Page 3, line 21.
Following: "(3),"
Insert: "after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242,"

AMEND/hm/Gomez HB 44

VISITORS' REGISTER

HOUSE HUMAN SERVICES AND AGING COMMITTEE

BILL 44 Date 1/9/85

SPONSOR Steve Waldron

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
KARL ENGLUND	MISSOULA	MT. TRIAL LAWYERS	✓	
Bonnie Tippy	Missoula	PLC	✓	
Anne Brodsky	Helena	Women's Lobbyist Fund	✓	
Cathy Campbell	Helena	MT Assn of Churches	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CLOSING STATEMENT: Representative Gould stated he has checked this out with the U.S. Department of Transportation, and they have no problem with it.

Hearing on HB 726 was closed.

CONSIDERATION OF HB 44: Representative Steve Waldron, sponsor of HB 44, testified this bill requires that the victimizer in a rape or incest case will pay for the counseling costs of the victim. It ties itself to some current sections of law. We have incontrovertible evidence that those victims of these types of crimes require intensive counseling to overcome these types of assault.

PROPONENTS: Cathy Campbell, representing the Montana Association of Churches, presented written testimony in support of HB 44 (Exhibit 4). Gail Kline, representing the Women's Lobbyist Fund, presented written testimony in support of the bill (Exhibit 5).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek asked if he tried to leave the court an out after determining the ability to pay the court shall require payment. Representative Waldron replied it was not his objective. If he has the ability to pay, then the court should require the payment.

CLOSING STATEMENT: None.

Hearing on HB 44 was closed.

CONSIDERATION OF HB 310: Representative Steve Waldron, sponsor of the bill, stated this bill expands the use of the temporary restraining order (TRO) for spousal abuse situations. There must be a contempt of court filed against the individual. Consequently there isn't much protection with a TRO. It makes a violation of a TRO a criminal matter. It allows the officer to arrest someone for violating the TRO. They can get the offender or potential offender out of the way. It makes the knowledge of the TRO readily available to the police. It was taken from the self-help TRO laws in Oregon. The House, by a very close vote, decided not to have justices of the peace implement the TRO. That is not a problem in the urban areas, but it is a problem in the rural areas.

PROPONENTS: Representative Paul Rapp-Svrcek thought this was a very important mechanism for victims of domestic violence. He spoke in favor of reintroducing the language dealing with the justices of the peace.

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 03/13/

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

DATE March 11, 1985

COMMITTEE ON Judiciary

BILL NO H.B. 310 Sick Help Restraining Order

VISITOR'S REGISTER HB 44, 300, 310 644, 717, 726, 7

NAME	REPRESENTING	Check One Support	Oppose
Caryl Wickes Borchers	Montana Coalition Against Domestic Violence	HB 310 ✓	
Deb. Dahlgren-Staff	Victim of Domestic Abuse	HB 310 ✓	
Janet Rehbein	Great Falls Women Alone	HB 310 ✓	
Adrienne Kelly	Victim Domestic Violence	HB 310 ✓	
Kitty Chandler	Women's Lobbyist Fund	HB 310 HB 547 HB 44	
Paul Hunt	Women's Lobbyist Fund	HB-44 HB-310 HB-547	
[illegible] Baker	Mason		HB 7
Klaus D. Stitt	Montana Legal Services Assn	HB 71 ✓	
Bill Evans	Department of Justice		HB72
Robert C. Rau	Montana Social Services Assn.	310 ✓	
Liam Shaw	Dept. of Labor		
Cathy Campbell	MT Assn of Churches	HB 44	
Mark Brown	Montana Health Service	HB 644	
Larry Majerus	Dept of Justice		HB72
Mark Murphy	A.G. Office	HB 721	
~~Jeanne H.~~ Buchanan	~~Missoula~~ Flathead Co. DUI Task Force	~~HB 726~~	HB 726
Betty Wing	Missoula County Atty's Off		HB 72
Jim Jensen	Mont. Magistrates Assn	HB 310 63	
Alan Nicholson	TII Products - Helena		L 717
Marie Adrian	Counselor SB44	HB547 HB310	
Douglas Gray	Children Rights for Parental Love		HB 71
Bill Mc	" Hna.		(HB 71
Al Lenselink	"		AB 71
Mike McGrath	County Atty's Assoc	HB 547; 310	
Chris Compton	Highway Traffic Safety - Justice		726
Caryl Wickes Borchers	Great Falls Community Coze DUI Task Force, Team of Gt. Falls		HB72

(Please leave prepared statement with Secretary)

Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

March 11, 1985

ORKING TOGETHER:

nerican Baptist Churches of the Northwest

nerican Lutheran Church Rocky Mountain District

Christian Church (Disciples of Christ) in Montana

Episcopal Church Diocese of Montana

Lutheran Church in America Pacific Northwest Synod

Roman Catholic Diocese of Great Falls-Billings

oman Catholic Diocese of Helena

United Church of Christ MT-N.WY Conference

nited Methodist Church Yellowstone Conference

resbyterian Church (U.S.A.) Glacier Presbytery

erian Church (U.S.A.) owstone Presbytery

MR CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE:

I am Cathy Campbell of Helena, representing the Montana Association of Churches and speaking in support of House Bill 44.

We've been concerned about the victims of crime for years, and in 1977 adopted a position paper supporting compensation of victims of crime. We feel that the financial burden should not be placed upon the victim.

The intent of this bill is consistent with our position, and acknowledges a dimension of the particular offenses that simple compensation doesn't.

We would therefore like to lend our support to the bill.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 031185
BILL NO. HB 44

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

March 8, 1985

TESTIMONY IN SUPPORT OF HB 44

Mr. Chairman and members of the Senate Judiciary Committee:

My name is Gail Kline and I am speaking on behalf of the Women's Lobbyist Fund (WLF) in support of HB 44. A priority of the WLF is to work to strengthen laws which reduce or, as in this case, mitigate the impact of crimes of sexual violence against women and children. As you well know, rape and incest are some of the most horrendous crimes of violence. Women and children are the most frequent victims of such crimes.

The seriousness of the crimes of rape and incest is heightened by the fact that the harm done to the victim is not limited to the time of the criminal act. Instead, crimes of rape and incest leave long lasting psychological wounds on those who have been victimized.

Rape is an act of violence. Incest is an act that is most often committed over a continuing period of time and the victims are children. The psychological harm caused to both rape and incest is severe for the victims.

HB 44 is a bill that requires the obvious to be done. It recognizes that psychological harm is inflicted on victims of rape and incest. It recognizes that counselling may be necessary because of that psychological harm. And finally, it requires the perpetrator of the crime to pay monetarily for the counselling that is required as a result of a criminal act.

We urge you to pass HB 44.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 031185
BILL NO. HB 44

through it. However, this law greatly affects the bread winner of a family. They feel the statute is fine the way it is.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: Representative Spaeth stated it was the intent of the legislature to have $300,000 per claim, not per claimant. He questioned some of our whole realm of sovereign immunity, but we should not overturn it without knowing some of its ramifications.

Hearing on HB 714 was closed.

ACTION ON HB 426: Senator Blaylock moved HB 426 be amended as follows:

Page 3, line 8.
Following: "27-19-316"
Strike: "(4)"

The motion carried unanimously. Senator Blaylock moved HB 426 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 200: Proposed amendments were distributed to the committee (Exhibit 4). Mr. Petesch explained what these amendments do is repeal the termination date which is section 1 in the bill and then the other changes are you go to the effective date section and say section 2 (the repealer) would be effective on passage and approval, and section 1 (the new number for overcrowding) would then be effective 30 days after the occupancy. Senator Towe commented that is a cleaner way of doing it. Senator Mazurek stated we are saying what the bill currently says in a cleaner way. Senator Towe explained we were amending a section and then repealing it. He approved. Senator Towe moved the amendments be adopted. The motion carried unanimously. Senator Blaylock moved HB 200 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 44: Senator Towe moved HB 44 be amended (as indicated by the standing committee report). The motion carried unanimously. Senator Blaylock moved HB 44 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Daniels voting in opposition.

FURTHER CONSIDERATION OF HB 310: Senator Crippen presented proposed amendments to the committee (Exhibit 5) and moved their adoption. This just provides another forum so the person involved can show he cannot pay the costs. It would not do any good to allow any relief if he cannot pay the costs. Mr. Petesch pointed out you need to make some amendments to page 7, lines 6-8, because there is still reference to justice and municipal courts. The motion to amend carried unanimously. Senator Shaw moved allowing the justice of the peace to file a restraining

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 03/1985

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

STANDING COMMITTEE REPORT

March 19 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 44

third reading copy (blue color)

(Senator Pinsoneault)

REQUIRE PAYMENT OF VICTIM COUNSELING BY OFFENDER; RAPE OR INCEST

Respectfully report as follows: That HOUSE BILL No. 44

be amended as follows:

1. Title, line 4.
Following: "ACT"
Strike: "DIRECTING"
Insert: "AUTHORIZING"

2. Title, line 6.
Following: "DEFENDANT"
Insert: "WHO IS FINANCIALLY ABLE AND WHO IS"

3. Page 2, line 10.
Following: "court"
Strike: "shall"
Insert: "may"

4. Page 2, line 11.
Following: "offender"
Insert: ", if able,"
Following: "victim's"
Insert: "reasonable"

~~DO PASS~~

~~AS AMENDED~~

CONTINUED

Senator Joe Mazurek Chairman.

March 19 19 89

HOUSE BILL NO. 44

5. Page 4, line 1.
Following: "court"
Strike: "shall"
Insert: "may"

6. Page 4, line 2.
Following: line 1
Insert: ", if able,"
Following: "victim's"
Insert: "reasonable"

AND AS AMENDED

BE CONCURRED IN

Senator Joe Mazurek, Chairman